

ORDER

**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

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**GUIDELINES FOR FAA PARTICIPATION IN THE DEPARTMENT
SUBJ: OF DEFENSE (DOD) INDUSTRIAL SECURITY PROGRAM (ISP)**

1. PURPOSE. This order prescribes procedures concerning the ISP that are to be used within FAA to ensure maximum uniformity and effectiveness in its application throughout the agency. This order also implements the industrial security policies contained in Chapter XIII of Order DOT 1640.4, Classification, Declassification and Control of National Security Information.

2. DISTRIBUTION. This order is distributed in Washington headquarters to division level in the Air Traffic, Airway Facilities, Civil Aviation Security, Flight Standards, Logistics and Systems Research and Development Services, and in the Offices of Aviation Medicine, Investigations and Security, Systems Engineering Management and Environmental Quality. It is distributed to the director level in the remaining offices and services. Distribution is also made to the branch level in the regional Logistics and Air Transportation Security Divisions, in NAFEC to the branch level in the Logistics and Investigations and Security Divisions, and at the Aeronautical Center to the branch level in the Procurement and Investigations and Security Divisions.

3. BACKGROUND. By agreement with DOT, the DOD ISP has been extended to include FAA and adherence to the provisions of the agreement is mandatory. A copy of the agreement is contained in Appendix 1, Agreement Between the Department of Defense and the Department of Transportation concerning the Industrial Security Program. The objective of the ISP is to assure the safeguarding of classified information in the hands of United States industrial organizations, educational institutions, and all organizations and facilities used by prime and subcontractors.

4. DEFINITIONS.

a. Access. The ability to obtain knowledge of classified information. An individual may have access to classified information by being in a place where such information is stored, used or processed, if the security measures in force do not prevent him from gaining knowledge of the classified information.

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b. Classified Contract. Any FAA contract or prospective contract which would require access to classified information by the contractor or any of his employees in the bid, negotiation, award, performance, or termination of the contract, including clearances required for visit purposes is considered to be a classified contract, even though the contract document itself is unclassified. Contractor access, per se, to such facilities as Air Route Traffic Control Centers (ARTCCs) or joint-use radar sites shall not constitute reason for classification of the contract. Rather, classification of the contract depends on whether the contractor will have access to classified information.

c. Classified Information. Official information which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States and which has been designated as TOP SECRET, SECRET or CONFIDENTIAL.

d. Clearance. A determination by an official and specified authority that an individual is considered trustworthy to have access to any classified information or material within a designated classification category for which he may have a need-to-know.

e. Contractor. Any individual, educational institution, commercial enterprise, or other entity which is a party to a contract with the U.S. government.

f. Contracting Officer. Any person who, in accordance with agency procedures, is currently designated a contracting officer with the authority to enter into and administer contracts and make determinations and findings with respect thereto, or any part of such authority. Some of the primary industrial security functional responsibilities of contracting officers are outlined in Appendix C, Industrial Security Regulation (ISR) 5220.22R.

g. Controlled Area. An area designated as either a CLOSED or a RESTRICTED AREA. A CLOSED AREA is one established to safeguard classified information. A RESTRICTED AREA is one established to control entrance into the area for purposes other than protecting classified information.

h. Headquarters Contract. A contract administered by the Logistics Service for services or products used only by Washington headquarters offices and services.

i. Industrial Security. That portion of internal security which is concerned with the protection of classified information in the hands of U.S. industry.

j. National Contract. A contract administered by the Logistics Service which affects facilities or other resources under the cognizance of the regions and centers.

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k. Need-to-Know. The term given to the requirement that knowledge or possession of classified information shall be provided only to properly cleared persons whose official duties or contractual obligations require such access. The responsibility for ascertaining an individual's need-to-know rests with the custodian of the information.

l. Region or Center Contract. A contract administered by a Logistics division which affects facilities or other resources under the cognizance of the respective region or center.

m. Technical Officer. The FAA employee having responsibility for technical monitoring of a particular contract.

5. APPLICABILITY. The ISR DOD 5220.22R is effective within the FAA. The Industrial Security Manual (ISM) DOD 5220.22M and supplements thereto are applicable to contractors, but are used in the FAA as reference documents.

6. RESPONSIBILITIES.

a. The Director of Investigations and Security, ASE-1, is responsible for security requirements of national contracts or programs, for management of the ISP within FAA, and for approval of contractor registrations for Scientific and Technical Information Services from the Defense Documentation Center (DDC).

b. The Director, Logistics Service, ALG-1, is responsible for formulation and implementation of Logistics Service policies, standards and procedures consistent with, and in furtherance of, the ISP.

c. Heads of Offices and Services and Region and Center Directors are responsible for insuring that the procedures prescribed herein are implemented by employees under their jurisdiction who engage in contractor procurement activities.

7. DETERMINATION OF CONTRACT CLASSIFICATION.

a. The technical officer shall include on Procurement Request, Form DOT F 4200.1, submitted to a procurement element, a statement as to whether the contract should be classified and the basis for classification.

b. If the technical officer determines that a contract should be classified, he or she prepares and submits with the Procurement Request a draft DD Form 254 with items 1, 9, 10, 11 and 13 completed. Basic classification guidance is contained in paragraph 7-101 and Appendix D, ISR.

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c. The contracting officer shall, in coordination with the servicing security element, conduct a review of the draft DD Form 254 and Procurement Request to determine whether the contract should be classified.

8. PRE-AWARD PROCESSING OF CLASSIFIED CONTRACTS.

a. Contracting and technical officers shall review all proposed procurements specifically to determine if classified information is likely to be required by a contractor during precontract negotiations. If so, the appropriate FAA security element shall be advised immediately and furnished a list of prospective bidders.

b. The contracting officer shall coordinate with the appropriate Defense Contract Administration Services Regions (DCASRs) to determine which, if any, of the prospective bidders require processing for a facility security clearance, and take action on such bidders as prescribed in paragraph 2-116, ISR.

c. The contracting officer shall issue with each Request for Proposal, Invitation for Bid, Request for Quotation, or other solicitation an original DD Form 254 prepared in accordance with paragraph 7-102, ISR, and paragraph F, Appendix 1, ISM.

9. CONTRACT AWARD AND POST-AWARD ACTIONS.

a. The contracting officer shall issue a completed DD Form 254, with the award of a contract or follow-on contract. Instructions for preparation of DD Form 254 is contained in paragraph F, Appendix 1, ISM.

b. The contract shall specify that visit requests shall be formulated in accordance with paragraph 37, ISM, and certified by the contracting officer before being sent to the activity to be visited. The contracting officer shall forward an information copy of the certified visit request to the security element servicing the facility to be visited. The contracting officer shall refer to paragraph 3-202, ISR, and paragraph 37, ISM, when certifying visit requests.

c. The contracting officer shall prepare and sign final, revised or other DD Forms 254 required by the ISR in accordance with paragraph 7-102, ISR. The contracting officer shall distribute the completed DD Forms 254 in accordance with paragraph 7-103, ISR, and to the technical officer, the servicing security element, ASE-200 and the contract file.

10. CONTRACT CLAUSE. Classified contracts shall contain a Security Requirement Clause as prescribed in Appendix 2 of this order. A Security Requirement Clause may not be included in any contract that is not classified.

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11. REVIEW OF CLASSIFICATION AND NEED-TO-KNOW.

a. The technical officer shall conduct a review of classification of the contract at least annually on the date of the contract, or more often as required by paragraph 7-104, ISR, and submit findings to the contracting officer. Within 10 working days of the contract date anniversary, the contracting officer shall notify in writing the contractor and other recipients of the DD Form 254 of the findings. No review is required of service type classified contracts such as guard force contracts.

b. A need-to-know review shall be conducted by the contracting officer as prescribed in paragraph 7-104d, ISR, when the contractor requests retention authority for classified information beyond the period for which retention authority has been granted (usually the duration of the contract). The contracting officer shall reference paragraph 5.m., ISM, in making a determination whether to permit the contractor to retain the requested classified information. If extension or retention authority is granted, the contracting officer shall make written notification as prescribed in paragraph 7-103, ISR, to the servicing security element, ASE-200 and the contract file.

12. RELEASE OF CLASSIFIED INFORMATION TO FAA CONTRACTORS.

a. Classified information may not be discussed with or released to any contractor or prospective contractor unless the contractor has the need-to-know; has a current verified industrial security facility clearance commensurate with the degree of classified information to which access is to be afforded; has properly cleared all appropriate company personnel; and has DCASR approved storage capability for the information to be provided.

b. Agency elements which desire to discuss or release classified information to a contractor, prospective contractor, or to an industrial firm or individual without an FAA contractor relationship, shall request the assistance of the servicing security element in all matters pertaining thereto. In the absence of any record of a valid industrial security facility clearance, action to obtain a facility clearance for the contractor, firm or individual must be initiated by the contracting officer. The same procedure shall be followed if change is needed in the clearance to afford the contractor, firm or individual with access to a higher level of classified information than currently authorized.

13. SECURITY REVIEW OF CONTRACTOR ORIGINATED MATERIAL. Material submitted by the contractor pursuant to the provisions of Section 12 of the DD Form 254 for approval prior to release, shall be reviewed by the contracting and technical officers to determine that the proposed release is technically and substantively accurate and is consistent with the FAA's public release policies; and by the servicing security element to determine that the proposed release does not contain classified information (paragraph 1-113, ISR).

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14. REPORTING UNAUTHORIZED DISCLOSURES OR PRACTICES.

a. Agency personnel who know of possible unauthorized disclosures of classified information by FAA contractors, or possible deficiencies in contractors' security procedures, including the transmittal of classified visit requests to an FAA facility by other than FAA contractors shall furnish such information to the servicing security element.

b. The servicing security element shall take such action as may be appropriate, including coordination with DCASR, other elements of the DOD, or other agencies as appropriate. The servicing security element shall notify ASE-200 of the situation and its resolution.

15. ACQUISITION OF DATA BY FAA CONTRACTORS FROM DDC.

a. Registration for Scientific and Technical Information Services of the DOD Manual, DSAM 4185.3, establishes requirements for acquisition of data by FAA contractors from the DDC.

b. The contracting officer shall forward DD Forms 1540, Registration for Scientific and Technical Information Services, received from the contractor to the servicing security element, with comments from the technical officer as to concurrence or nonconcurrence with the request.

c. If the technical officer takes exception to a contractor request, either in part or wholly, with the approval of the contracting officer he shall contact the contractor to resolve the matter and have the contractor resubmit DD Form 1540 if appropriate.

d. Servicing security elements shall forward DD Form 1540, with concurrences, to ASE-200 for final review, check with DCASR if appropriate, completion of Part III, and transmittal to DDC.

16. REIMBURSEMENT.

a. Because the agreement between DOT and DOD has been extended to include DOT/FAA, the following procedures shall be followed in the event it becomes necessary to use FAA funds to reimburse DOT or DOD. When it becomes known that FAA funds may be expended for ISP reimbursement, FAA personnel administering the provisions of this order shall furnish the following information to AAA-200 supported by appropriate documentation.

(1) The amounts and fund citations for potential billings.

(2) The persons or positions authorized to approve the billings when received, as legal obligations of FAA and proper for payment by AAA-200.

(3) Sufficient information concerning the specific materials or services received or to be received, to establish the validity of the obligations and payments.

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b. In addition to furnishing the above described information to AAA-200, FAA personnel administering the provisions of this order shall arrange with DOT or DOD to address billings to the following address:

Department of Transportation
Federal Aviation Administration
Accounting Operations Division, AAA-200
800 Independence Avenue, S.W.
Washington, D.C. 20591

17. FORMS.

a. DD Forms 254, Contract Security Specification, and the continuation document, DD Form 254c. Source of supply is ASE-200.

b. DD Form 1540, Registration for Scientific and Technical Information Services. Source of supply for contractors is DDC, Cameron Station, Alexandria, Virginia 22314, Attention: DDC-TSRO1.

18. DOD INDUSTRIAL SECURITY DIRECTIVES. The ISR, DOD 5220.22R, ISM, DOD 5220.22M and supplements thereto, are obtained from DOD by ASE-200 for issuance to FAA security and procurement elements, Airway Facilities Service and the Systems Research and Development Service.


ALAN W. READ

Director of Investigations and Security

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Appendix 1

APPENDIX 1. DOD/DOT AGREEMENT

Agreement Between the Department of Defense
and the Department of Transportation Concerning
the Industrial Security Program

The Department of Transportation hereby authorizes the Department of Defense to act for and on behalf of the Department of Transportation in rendering security services for the protection of classified information released to or within Industry by the Department of Transportation. It is understood and agreed that the Department of Defense will apply the specific requirements, restrictions, and other safeguards as prescribed in the Department of Defense Industrial Security Regulation, the Department of Defense Industrial Security Manual for Safeguarding Classified Information, the Cryptographic Supplement to the Industrial Security Manual for Safeguarding Classified Information, and the Industrial Personnel Security Clearance Program Directive, except as otherwise herein provided.

The Department of Transportation, when acting as a contracting agency, will have the authority and responsibility and will perform the functions specified for a user agency in the Industrial Security Manual for Safeguarding Classified Information and in the Industrial Security Regulation and the Cryptographic Supplement to the Industrial Security Manual for Safeguarding Classified Information.

Proposed substantive changes to the Industrial Security Manual for Safeguarding Classified Information, the Industrial Security Regulation, the Cryptographic Supplement to the Industrial Security Manual for Safeguarding Classified Information and the Industrial Personnel Security Clearance Program Directive, will be submitted to the Department of Transportation for prior review and coordination, reserving, however, the final decision for the Secretary of Defense.

The Department of Transportation accepts the Department of Defense Security Agreement (DD Form 441) and Appendege (DD Form 441-1). Department of Transportation contracts will contain a clause requiring each Transportation contractor to adhere to the Department of Defense Security Agreement.

Only Department of Defense facility clearances and personnel security clearances will be issued to or within Industry. All facility and personnel security clearances granted by the Department of Defense and Confidential personnel security clearances properly granted by contractors will be accepted by the Department of Transportation for access to its classified information.

The Department of Defense will notify the Transportation Department before taking action to invalidate a facility security clearance of a Transportation Department contractor.

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In personnel security cases from a Transportation Department contractor, the Transportation Department will be entitled to have one voting member on the Screening Board Panel and one voting member on the Appeal Board Panel.

If granting or continuing a security clearance of a specific category in a Transportation Department case is not warranted, and the case is considered under the provisions of Section 4.(a) or Section 5.(b) of Executive Order 10865, the case will be forwarded for determination by the Secretary of Transportation.

When the necessity arises for the determination "by the head of the department" of "good and sufficient" cause within the meaning of Section 4.(a)(2)(B) of Executive Order 10865, this determination will be made by the Secretary of Transportation.

The Secretary of Transportation hereby designates the Assistant Secretary of Defense (Administration) as his "special designee" for the purposes of Section 4.(a)(2) and Section 5.(b) of Executive Order 10865, which authority is not subject to redelegation.

When a decision under Section 9 of Executive Order 10865 may be warranted, the case will be forwarded for the findings and determination of the Secretary of Transportation. If the Secretary of Transportation decides that the case does not warrant action under Section 9 of Executive Order 10865, the case will be returned to the Department of Defense for processing under the other provisions of Executive Order 10865 and the Industrial Personnel Security Clearance Program Directive.

The Secretary of Transportation agrees that the Assistant Secretary of Defense (Administration), or his designee for that purpose, will act in his behalf in all actions authorized by the Industrial Personnel Security Clearance Program Directive.

The Secretary of Transportation will occupy a status and have authority similar to that of the Secretary of Defense in any case from a Transportation Department contractor processed under the Industrial Personnel Security Clearance Program Directive.

Reimbursement shall be made for security services rendered for the Transportation Department in an amount agreed upon by the Transportation Department and the Assistant Secretary of Defense (Administration).

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Appendix 1

The "Agreement Between the Department of Defense and the Federal Aviation Agency," executed on July 6, 1960, as amended on January 17, 1967, is hereby superseded and cancelled effective the date of signing this Agreement by the signatory official of the Department of Transportation.

For the
Department of Defense

For the
Department of Transportation

signed Cyrus Vance DEPUTY

signed Alan S. Boyd

(Date)

(Date)

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Appendix 2

APPENDIX 2. MILITARY SECURITY REQUIREMENTS - ASPR 7-104.12 (1971 Apr)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," "Secret," or "Top Secret."

(b) The Contractor shall comply with (i) the Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for safeguarding Classified Information (DOD 5220.22-M); and (ii) any revisions thereto, notice of which has been furnished to the Contractor.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government as provided in this clause and the security costs or time required for delivery under this contract are thereby increased or decreased, the contract price, delivery schedule, or both and any other provision of the contract that may be affected shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause of this contract.

(d) The Contractor agrees to insert in all subcontracts hereunder which involve access to ~~classified information~~ provisions which shall conform substantially to the language of this clause, including this paragraph (d), but excluding the last sentence of paragraph (c) of this clause.